

THE BOARD OF EQUALIZATION OF UTAH COUNTY, UTAH
COMMISSION CHAMBERS, ROOM 1400
OF THE UTAH COUNTY ADMINISTRATION BUILDING
Tuesday, May 26, 2015 at 1:00 P.M.

PRESENT: COMMISSIONER LARRY A ELLERTSON, CHAIR
COMMISSIONER WILLIAM C. LEE, VICE-CHAIR
COMMISSIONER GREG GRAVES

ALSO PRESENT:

Cort Griffin, Attorney's Office	Burt Harvey, Clerk/Auditor's Office
Andrea Allen, Recorder's Office	Vicky Westergard, Clerk/Auditor's Office
Keven Ewell, Assessor's Office	Sandy Nielson, Clerk/Auditor's Office
Peter Jeppsen, Assessor's Office	Brad Bishop, Rural Housing Development Corp.

Commissioner Ellertson called the meeting to order and it began at 1:06 P.M.

1. APPROVE MINUTES OF THE BOARD OF EQUALIZATION MEETING HELD ON APRIL 28, 2015.

All three commissioners agreed there were no changes or corrections or additions needed to be done on the minutes.

Commissioner Lee made the motion to approve the Board of Equalization minutes from April 28, 2015.

Commissioner Graves seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

2. ACCEPT FOR DENY NEW APPLICATION FOR PRIVILEGE TAX EXEMPTION RECEIVED AFTER DEADLINE OF MARCH 1, 2015 FOR GENE LEE, SERIAL NO. 21:032:6427, HANGER #16-4.

Commissioner Graves made the motion to accept the new application in Item No. 2. Commissioner Lee seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

3. APPROVE OR DENY NEW APPLICATION FOR PRIVILEGE TAX EXEMPTION FOR GENE LEE, SERIAL NO. 21:032:6427, HANGER #16-4.

Peter Jeppsen described the problems with the hangers at the Provo Airport. Some of the tax payers never got the notices because we had a wrong address and some got the notices but because they had been there forever, didn't know about the privilege tax. Numbers one and two are the same scenario. Number three actually was getting the notice but didn't think he owed anything because he didn't own the building. He explained Provo City owns the building and they have exclusive use of it, so the Privilege Tax applies. They want to turn in an application to be exempt since they do not use them for commercial purposes. Peter, when asked by Commissioner Graves if there were any reasons why he should not get an exemption, answered no. Commissioner Graves made the motion to approve Item No. 3 on the agenda. Commissioner Lee seconded the motion. Before it could be voted on, Burt Harvey added Mr. Lee didn't show any documentation to show he did not use it for commercial use. Therefore, in his opinion, the application should be denied. He continued that as part of the application, they are required to provide tax information that they are not claiming the use or lease that hanger for a business expense. Mr. Lee did not provide that documentation but on Item No. 4, Mr. Liston did provide that information. We will be willing to send a letter to them requesting this information.

Commissioner Graves amended his motion to continue Item No. 3 until the next meeting. Commissioner Lee seconded the motion and carried with the following vote:

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Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

Peter added Mr. Lee did come in and pay all taxes, penalties and interest. He said because of the mix-up, he gave him the same opportunity that the commissioners could waive penalties and interest. Mr. Lee wanted to pay the whole thing. Commissioner Lee asked if there was a way to approve the application contingent on him providing his information. Peter said that would be his motion. Burt commented what would need to happen is, like any of the exemptions, once he submitted the documentation, it would be submitted to the Attorney's Office to be reviewed and make sure he qualifies. It is up to the Commission on how you want to make the motion, but it might be premature to accept the application until we have had a chance to review the tax information. Some people think they are using it for personal use, but they have all of the property within the hanger registered to an LLC. This is pretty much normal for anyone who is using an airplane or a hanger or they may have claimed the expense on their personal taxes as a business expense. Commissioner Ellertson stated he thought the question was, would it be okay to approve it subject to your satisfaction that is exempt. When asked if he agreed with that, Burt stated he thought it would be better to continue it for one month so we can try to communicate with him. He continued stating, Mr. Lee might not submit anything.

4. ACCEPT OR DENY NEW APPLICATION FOR PRIVILEGE TAX EXEMPTION RECEIVED AFTER DEADLINE OF MARCH 1, 2015 FOR CLAY M LISTON, SERIAL NO. 21:032:6402, HANGER #22-2.

Commissioner Graves made the motion to accept the new application contained in Agenda Item No. 4.

Commissioner Lee seconded the motion and carried with the following vote:

Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves
Nay: None

5. HEAR LATE APPEAL OF PROPERTY TAX ASSESSMENTS. RECONVENED GRANTED BY THE STATE TAX COMMISSION FOR NELDON & JEWELL BULLOCK, SERIAL NOS. 12:022:0087, 12:022:0094, 12:022:0096 & 12:022:0097, Appeal No. 14-2265.

Keven Ewell explained there is a single family home and four vacant properties. He said he was able to contact the Bullocks once, but they said they were busy and would return his call. He continued commenting they had not contacted him. So, he described trying to contact them again three other times with no luck. Commissioner Ellertson asked if they had given him any valuation information. Keven answered nothing from the Bullocks. He gave some documentation to each of the commissioners. He then explained page one is the comps. He said we currently have it at \$192,300 which the comps are from \$187,000 – \$195,000. Keven added there are more comps (4-7) as well that range from \$180,000 - \$195,000. Commissioner Graves asked how the property differs from Comp #1 that seems to have roughly the same square footage, the same year built, same location and acreage. Keven answered it is in better condition as it has been updated and the subject has not. Comp #1 has a \$20,000 adjustment for condition. Also, the subject doesn't have a finished basement so there is an adjustment for that. Comp #1 is also a short sale. He added that he thought the best comp it is comparable to is #2 which is at 500 West 797 North in Lehi. Commissioner Ellertson said this comp seems to be in line with the valuation. Keven asked could we be a little bit high or low, then yes to both questions. He thought we are within a range that it is comparable. Commissioner Ellertson questioned if the information relative to the basement and those other adjustments was obtained from the Bullocks. Keven replied it was not. It was market data from county records. Without being able to verify that information on the basement, it is difficult. He mentioned how it is not typical for a 1978 home to have a completely unfinished basement. He explained how all of the comps have finished basements which is what is typically find

on the market. Commissioner Graves stated he was satisfied with the appraisal value adding it is in line with all of the comps. Keven added he had adjusted up to \$14,000 on each comp due to unfinished basement in the subject property. He said we are at or below what we could be on all of the serial numbers. Sandy Nielson commented Jewell Bullock called on Tuesday and was asked to call Keven. Jewell said she was unable to find documentation to support a different value.

Commissioner Graves made the motion to deny the appeal as stated in agenda item No. 5. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

6. APPROVE OR DENY APPLICATION FOR REVIEW BY BOARD OF EQUALIZATION OF FARMLAND ASSESSMENT ACT STATUS FOR KURT CHRISTENSEN, SERIAL NO. 25:064:0009.

Diane Garcia explained Mr. Christensen applied for Greenbelt in April, 2014 for the 2014 year. He was denied for Greenbelt based on a lack of agricultural production. He was given a letter stating it was denied and he had 45 days to appeal it. In that denial letter, she explained she had enclosed the appeal papers. He recently returned those papers but it was way past the 45 days deadline. He did not turn in an application for the 2015 year by the May 1st deadline for new applications. He did get an application for 2015 in December but has never returned it. Commissioner Ellertson asked Diane if she had talked with him directly. She replied yes. She said she was confused as to why he turned in an appeal for the 2014 year now. She said he turned in the 2014 application timely but it was denied. He then did not appeal the denial timely. Now, he is appealing. Diane when asked if he now met production, Diane said no. She said she had been out there last week and took more photos.

Commissioner Graves made the motion to deny the application as stated in Item No. 6. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

7. ACCEPT OR DENY INITIAL EXEMPTION APPLICATION FOR RURAL HOUSING DEVELOPMENT CORPORATION, SERIAL NO. 08:159:0005 AS SPECIFIED IN BINDER. (Continued from 4/28/2015).

Commissioner Graves made the motion to accept the Item stated in No. 7. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Lee
Commissioner Graves**
Nay: None

8. APPROVE OR DENY CONTINUING STATEMENTS FOR 2015 PROPERTY TAX EXEMPTIONS FOR RURAL HOUSING DEVELOPMENT AS SPECIFIED IN BINDER. (Continued from 3/31/2015 & 4/28/2015).

Brad Bishop, Executive Director of Rural Housing Development Corp., explained the history of this mutual self-help program, how the program works to provide housing options to families with an average of 4 members and with a median income of \$35,000, and how several families help each other build each other's homes by working around 1200 – 1400 hours. He said the agency works with these families to make them eligible for the program. At the same time, we go out and procure ground for the families to put their homes on. He continued by stating 4 of the

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last 5 attempted properties had improvements to needed to be put upon similar to the ones we are asking for today. It takes up to a year to entitle and to put the improvements in and then sell the properties. When we buy the land it is typically purchased by some form of HUD dollars. Those HUD dollars have some time requirements to prevent us from land banking and has a three year timeline. HUD on HOME Funds (administered by Provo City and the County) also doesn't allow you to land bank. You have to show a continual progression of work on the property. This we typically show with entitling and putting in improvements. If it is not vacant, sometimes we will secure a large amount of lots, which was the case in Elk Ridge. Every year, we are certifying on an average 35 homes. So, for us to stay on top of the program, we buy land. Over the last 15 years, we have purchased 400 lots of which approximately 33% of those have been exempted. We are having to hold 4 of those due to putting in improvements or because there is a large amount of lots that we are having to put through the system. So, the charitable exemption we are using is for is that holding time. We average about a one and a half year period when they are exempted. For example in Elk Ridge, we had 23 of them sold in the first year. We are selling 10 more next month. We are exhausting those we have purchased.

Burt Harvey explained there are vacant properties approved by previous commissions in previous years that they are asking for continuing exemption on this year. He continued stating there are a few of these that are on their second year of asking for an exemption. There is one lot that has been exempted several times. Brad explained they have had a subdivision in Santaquin, Lee Meadows, where they had 37 lots that went through that process and were exempted. We went through those 31 of those lots rather quickly. Then the crash hit in 2007. We have been whittling away at one or two of those lots by grouping them with lots closer to the County seat here that are more desirable. We have been doing that 3 at a time. So, we have one lot left there. 31 of the 38 lots were sold in the first 2 years. Commissioner Graves asked if the one lot is still in process. Brad answered it is in their process. Because of HUD's rules, we have had to pay penalties on that lot. It is all improved and we have a plan all set for it.

Commissioner Lee asked how with the vacant lot status, where we have Supreme Court rulings on vacant land, how could we justify exempting vacant land. Second questions is when it comes to the price that is incurred on a non-tax exempt land, does it get rolled into the homeowner eventually or is it absorbed by you. How does that work? Brad answered question number two first. Ultimately it is going to hit the homeowner. There have been times when there have been lots that have been undervalued. So, the County and Provo City, by administering their federal dollars at times, have subsidized the difference. Other years where the property may exceed the value, we will pull up an appraisal on that lot and work within the loan limit. We cannot exceed the total loan for the lot and construction of the home. That caps the market rate price. So if the lot is valued at \$75,000, we will have to sell it for \$55,000 - \$56,000 as we have done recently because the loan limit would have been exceeded when you add the construction loan. There are a lot of safeguards in how that lot is sold. We try to get as close to the market price as possible. At times, we don't come even close to that amount. Concerning the first question, last year we had two separate land owners who had lots in Greenbelt at the time. We purchased one parcel in May and the next a couple of months later. We then took it through the engineering and entitlement series. It was approved last month on April 1st. From there we will put in the improvements. Ultimately we will put them in the pipeline to be sold at the end of this year or next year to low-income families. In statute it is pretty concise reading there. What we will do on our end is as soon as we are through with our exempt purpose of getting them to a low-income family for affordable housing purposes, we will get them sold and then they will go back on the tax roll. You can't go out and buy lots because there aren't any.

Commissioner Graves stated there is a difference in vacant land and vacant land that is in process because the process may take 18 months and that is what you are contending, right? Brad answered exactly. At time when the recession hit, there were multiple vacant existing developed lots that we could purchase and rotate quicker. We don't typically exempt those because there is no need to. We only have them for a short period of time. In this case, a vacant parcel with no sidewalks, no improvements of utilities or streets, it takes time.

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Commissioner Lee asked how we can justify this in the sense that multiple counties around us are looking at this as well. They hold tight to the letter of this statute. Then, they hear from others around the state, "Well, Utah County is exempting them" and we are not exempting them based on what we read as law. So, it becomes a tricky tap dance. Brad said that was his fault for talking to Cache Valley. Wasatch County has chosen to exempt them. They have approved our last subdivision that we had to finish improvements of the subdivision. They exempted them. We have actually put in an application again this year for some vacant land that was agricultural land that we are developing into affordable housing. Their county is partnering with us in that purchase with a 0% loan because of the great need for affordable housing. There are no starter homes in our county. Add a low-income family to boot into an affordable home, is very difficult. We have shown a success over the last 15 years with 377 homes built and have had a 1.5% default rate. Commissioner Lee said the other problem he runs into at this time, is not always the front end but also the back end, too, when you look at this. You say there is 1.5 years processing time but I hear there has been times when the vacant parcel has been exempted for 8 years before it actually turned over. And so there is no length of time... we just keep doing this over and over. We look at the very beginning of this and say yes there is good intentions on this. But then it doesn't translate to that. Commissioner Lee said he is confused as to how we manage that to a certain extent when we are not holding to what the law is. Commissioner Ellertson tried to explain where he is on this. He said their stock and trade is to have these lots so they can build these homes for these people. He added he thinks the law as it came down is for people who this is not their stock and trade. Their having vacant land for future use but they haven't identified what they will actually do with it. For these people, they have to have the land so they can do what they do in their tax exempt status. We had a situation back in 2004 where then attorneys Sundberg and Shawcroft indicated if the parcels are in the process of being prepared for that tax exempt process, they can be exempted. Commissioner Ellertson said, "That's the way I do this." These are the lots that are in the process of working through the process for their stated tax exempt reason. Which is to get these lots ready so they can use them. Commissioner Lee countered that he thinks that is an interpretation of state statute to a certain degree. He continued saying he didn't necessarily think it was viewed the same when he talked with our association about it. They were very concerned that it is being done differently throughout the state of Utah or looked at differently. He continued saying maybe we should change some of the rules. Commissioner Ellertson asked if it was for this same purpose. Commissioner Lee answered yes, this same purpose. He said told them maybe we should take it to the state legislators if this law is not working appropriately, maybe it should be changed. They said, no, this is not going in the right direction. We have to make sure we hold it. So, Commissioner Lee continued saying he is confused at the interpretation. Commissioner Ellertson said "I think our association is incorrect, I am sorry." Commissioner Lee replied, "That is an assumption, too." He continued by saying it is hard to come to that conclusion when we have a law in place that specifically says what we should and shouldn't do. Commissioner Ellertson responded to Commissioner Lee that he was defining this land as vacant land while he (Commissioner Lee) wasn't. Commissioner Lee countered that according to what it says in state statute unless they do something by January 1st, it is vacant land. Commissioner Ellertson returned that he has curb, gutters and sidewalk and improvements on the land. Commissioner Graves added he is a legally and licensed 501(c)(3) as recognized by the government and this is part of their business. Therefore, just because someone does something and it takes 18 months to do it, are we really supposed to hold them in "hark". Commissioner Lee said we do it all the time in the processes in Greenbelt and everything else. If they don't follow a certain process that has been defined, they will say no. Commissioner Graves added that they are following the process of defined in 501(c)(3). Commissioner Lee replied 501(c)(3) – nonprofit, charity or education- that's all written in the statute. Where are they following the process of building permits and so forth? Commissioner Ellertson countered because they have the curbs, gutters and sidewalks, they have those permits in place. They have already gone through that process with the city. They have already begun to do what they are doing. It is not just vacant land. Commissioner Lee asked Cort if he is reading the definition in statute wrong. Commissioner Ellertson said according to our attorney's office they acknowledged if they are in this process with it, it could be exempted. Cort Griffin read the following to the commission, "Vacant land which is not actively used by the religious, charitable, or educational organization is not deemed to be devoted exclusively to religious purposes." It can be any charitable use. Commissioner Graves said it was active. Commissioner Lee reminded the other commissioners that they had denied BYU and they had curb and gutter around their property. Cort continued:

“Vacant land that is held for use future development by a religious, charitable, or educational organization may not be deemed to be devoted exclusively to exempt purposes.” The question here is vacant land that is held for future development. But there is curb and gutter there. That is development. That is present development. Brad added they did not get approved for the subdivision until April 1st. So the improvements will start to go in during the next few months.

Commissioner Graves asked to clarify with Burt Item #8 is continue what has been already done, Item #9 is do more of what they have previously done. Burt answered Item #9 is to approve or deny for the properties they are asking for in 2015. Commissioner Ellertson asked Brad if Item #9 was for the properties he just spoke about-where they just got the subdivision approved. Commissioner Lee asked Brad how many exemptions on Item #8 that were on last year. Brad said on Item #8 there is the one property in Santaquin and the 9 remaining lots (after we sell 10 of them in June). Burt described how they apply for new properties each year and other exempt properties are sold off. The exception is the lot in Santaquin and one in Elk Ridge that have been exempted for multiple years. Commissioner Lee asked for how many years. Burt surmised that the Santaquin one was since 2007 and the Elk Ridge one since 2009 or 2010. Brad corrected this information stating they had not owned the property in Elk Ridge since then. The only property held longer is the one in Santaquin. Commissioner Graves said in his opinion the one in Santaquin was still in process. Brad said they had some Spanish Fork properties that were overbought and took 4 years to be sold. Commissioner Lee reiterated that it had been exempted since 2007 and had not been sold. Commissioner Ellertson replied Brad had been actively trying to do what he does in his tax exempt organization. Brad said limit it to three years. It is something that will carry over to the buyer. It is the County’s priority if they want more affordable housing or not. He said they have had to pay penalties on that land to HUD. We are paying a 5% interest rate on that land. It went from 0% in the first three years to 5%. Commissioner Lee asked if the Santaquin one would be in process this year and taken care of. Brad answered yes.

Commissioner Graves made the motion to approve the 2015 Continuing Tax Exemptions for Rural Housing Development as specified.

Because there was lack of a second, Commissioner Ellertson briefly suspended Robert’s Rules of Order for the purpose of seconding this motion with the understanding that this is continuing to serve the purpose of the tax exempt organization that has evolved here.

The motion was seconded by Commissioner Ellertson and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Graves
Nay: Commissioner Lee**

9. APPROVE OR DENY 2015 INITIAL EXEMPTION APPLICATION FOR RURAL HOUSING DEVELOPMENT CORPORATION, SERIAL NOS. 08:159:0003, 08:159:0010, & 04:066:0017 AS SPECIFIED IN BINDER. (Continued from 3/31/15 & 4/28/15).

Commissioner Graves made the motion to approve the 2015 application for Rural Housing Development as I do not find it to be vacant land. I find it to be in process.

Because there was lack of a second, Commissioner Ellertson briefly suspended Robert’s Rules of Order for the purpose of seconding this motion with the understanding that we do this is in process.

The motion was seconded by Commissioner Ellertson and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Graves
Nay: Commissioner Lee**

Brad invited the Commissioners to their next Open House so they can see what is going on. Commissioner Lee mentioned he had been to many of those around the state. It is a wonderful program. He continued that in his opinion, he just doesn’t fit when we are trying to follow state statute. Commissioner Ellertson added that in his opinion, he did believe they are following state statute because it is in process and is not vacant land in the sense that the state statute intends it to be.

10. REVOKE TAX EXEMPT STATUS FOR IVY HALL ACADEMY, INC. THAT FAILED TO FILE CONTINUING PROPERTY TAX STATEMENTS AS REQUIRED BY UTAH STATE CODE SECTION 59-2-1102, PERSONAL PROPERTY ACCOUNT NO. 25417. (Continued from 4/28/15).

Burt explained several letters had been sent to Ivy Hall Academy to submit an application. They have not done so. So, we are putting this before the Commission due to the lack of an application. Commissioner Ellertson, in reading the May 5th letter sent to them, described the attempts to get them to rectify this oversight and invited them to attend the meeting today. He asked if our view is that they are no longer using the property for its intended purpose. Burt answered we did not know what it is being used for. We only know they did not submit an application to renew their exemption. He continued by explaining the office procedures to contact each organization so they could renew their exemptions. Commissioner Graves asked when could they reapply if they are revoked. Burt answered they would have to pay taxes this year but could do an initial application in 2016. They could also appeal the decision to the Utah State Tax Commission if they feel we have dismissed or revoked their exempt status inappropriately or unfairly. We have gotten a certified post card back from them. So, we know they are getting the letters.

Commissioner Graves made the motion to revoke the tax exempt status for Ivy Hall Academy as stated in Item No. 10. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Graves
Commissioner Lee**
Nay: None

Commissioner Graves made the motion to adjourn the meeting. Commissioner Lee seconded the motion and carried with the following vote:

**Aye: Commissioner Ellertson
Commissioner Graves
Commissioner Lee**
Nay: None

There being no further business, the meeting adjourned at 2:03 P.M. The minutes of the May 26, 2015 Board of Equalization Meeting were approved as transcribed on June 30, 2015. .

UTAH COUNTY BOARD OF EQUALIZATION
Larry A. Ellertson, Chair

ATTEST:

BRYAN E. THOMPSON
Utah County Clerk/Auditor

Copies available upon request or online at:
www.utahcountyonline.org, www.utahcounty.gov or www.utah.gov/pmn
Recorded by Vicky Westergard, Tax Administration Clerk